

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN D. KNABB, III, and TRACY L. KNABB,)
Individually and as Parents and Natural)
Guardians of Joanne D. Knabb, a Minor,)
)
Plaintiffs)

v.)

INTERNATIONAL BIOMEDICAL, INC., a)
Texas Corporation, t/d/b/a Airborne Life Support)
Systems,)

Defendant and Third Party Plaintiff)

v.)

STEPHEN G. WOODS, Administrator of the)
Estate of John E. Bridge, Deceased;)
CHILDREN'S HOSPITAL OF PITTSBURGH;)
and GUARDIAN ANGEL AMBULANCE)
SERVICES, INC.,)

Third Party Defendants)

Civil Action No. 04-215 Erie

JURY TRIAL DEMANDED

**DEFENDANT IBI'S MOTION FOR MODIFICATION OF CASE
MANAGEMENT ORDER**

Defendant and third party plaintiff International Biomedical, Inc. respectfully submits the following Motion for Modification of Case Management Order.

1. Plaintiffs John D. Knabb, III and Tracy L. Knabb, individually and as parents and natural guardians of Joanne D. Knabb, a minor, commenced this action on July 26, 2004 against defendant International Biomedical, Inc. and, on September 2, 2004 defendant filed an Answer to Complaint.

2. The Court issued a Preliminary Scheduling Order on September 2, 2004 and, on September 20, 2004, plaintiffs and defendant filed their Joint Report of Rule 26(f) Meeting.

3. On October 6, 2004 a case management conference was held before the Court, and on October 20, 2004 a Case Management Order was issued, closing discovery on February 6, 2005 and requiring that pretrial statements be filed on or before April 7, 2005 (plaintiffs) and April 27, 2005 (defendant), with dispositive motions and responses due on or before February 16, 2005 and March 18, 2005, respectively.

4. The parties served their initial disclosures on September 20, 2004 (plaintiffs) and October 15, 2004 (defendant) and, on November 9, 2004, plaintiffs served interrogatories and document requests on defendant that were answered on February 18, 2005.

5. On October 14, 2004 the Court granted defendant's Motion for Leave to File Third Party Complaint and Serve Third Party Complaint and Summonses and, on October 18, 2004, defendant filed a Third Party Complaint against all three third party defendants. That complaint and the summonses were served on the third party defendants on October 19, 2004 (defendant Woods), October 21, 2004 (defendant Children's Hospital of Pittsburgh)("CHP") and October 29, 2004 (defendant Guardian Angel Ambulance Services, Inc.)("Guardian Angel").

6. Answers were filed to the Third Party Complaint on December 20, 2004 (Woods) and February 1, 2005 (CHP) and February 26, 2005 (Guardian Angel).

7. On February 8, 2005 the Court granted the parties' Joint Motion for Modification of Case Management Order filed on February 7, 2005, extending discovery to June 6, 2005 and requiring the filing of plaintiffs' pretrial statement by August 5, 2005, defendant's pretrial statement by August 26, 2005 and third party defendants' pretrial statements by September 16, 2005. Dispositive motions were to be filed by June 27, 2005, with responses by July 27, 2005.

8. On May 26, 2005 the Court granted the parties' Joint Motion for Modification of Case Management Order filed on May 24, 2005, extending discovery to October 4, 2005 and requiring the filing of plaintiffs' pretrial statement by December 3, 2005, defendant's pretrial

statement by December 24, 2005 and third party defendants' pretrial statements by January 4, 2006. Dispositive motions were to be filed by October 25, 2005, with responses to be filed by November 24, 2005.

9. On September 16, 2005 the Court granted the parties' Joint Motion for Modification of Case Management Order filed on May 26, 2005, extending discovery to December 4, 2005 and requiring the filing of plaintiffs' pretrial statement by December 24, 2005, defendant's pretrial statement by January 13, 2006 and third party defendants' pretrial statements by February 2, 2006. Dispositive motions were to be filed by December 4, 2005, with responses to be filed by January 13, 2006.

10. On November 10, 2005 the depositions of three representatives of defendant IBI were taken in Austin, Texas and on November 11, 2005 the depositions of plaintiffs John D. Knabb, III and Tracy L. Knabb were taken in Houston, Texas.

11. On December 2, 2005 the Court granted the parties' Joint Motion for Modification of Case Management Order filed on December 1, 2005, extending discovery to January 1, 2006 and requiring the filing of plaintiffs' pretrial statement by January 21, 2006, defendant's pretrial statement by February 10, 2006 and third party defendants' pretrial statements by March 6, 2006. Dispositive motions are to be filed by January 21, 2006, with responses to be filed by February 10, 2006.

12. On December 15, 2005 the depositions of seven witnesses were taken in Pittsburgh, Pennsylvania of one of the Pennsylvania State Troopers who investigated the motor vehicle accident in question, one of plaintiff's liability experts concerning narrow factual issues, two managerial employees of Guardian Angel, the two Guardian Angel emergency medical technicians who were attendants on the ambulance involved in the motor vehicle accident and one of the two members of the transport team from CHP who accompanied the infant plaintiff on

the ambulance transport from Franklin, Pennsylvania to Pittsburgh, Pennsylvania during which the motor vehicle accident occurred.

13. On December 30, 2005 the Court granted the December 30, 2005 Joint Motion for Modification of Case Management Order of all parties but defendant Woods, extending discovery to February 1, 2006 and requiring the filing of plaintiffs' pretrial statement by February 20, 2006, defendant's pretrial statement by March 12, 2006 and third party defendants' pretrial statements by March 22, 2006. Dispositive motions were to be filed by March 12, 2006, with responses by March 12, 2006. The Case Management Order of October 20, 2004 was to remain in effect in all other respects.

14. On January 17, 2006 the deposition of the other member of the CHP transport team was taken. CHP has produced records requested, but Guardian Angel and IBI have not yet produced records that have been requested.

15. Nonetheless, it is anticipated that discovery will be completed by February 1, 2006. However, defendant-third party plaintiff IBI has determined that the discovery taken has raised a number of complex issues requiring the retention of expert witnesses who have not yet been retained, but should be retained with several days, and believes that the complexity of those issues will prevent the preparation of expert trial reports on or before March 12, 2006, the date on which IBI's pretrial statement is due under the present Case Management Order.

16. IBI believes that the expert analyses and trial reports required could be completed on or before April 11, 2006, which is, of course, only thirty days beyond the time for filing IBI's pretrial statement under the present Case Management Order.

17. Counsel for IBI has discussed this Motion with counsel for all other parties, who indicated their clients have no objection to the relief requested.

WHEREFORE, defendant and third party plaintiff International Biomedical, Inc. respectfully requests that the Court modify the Amended Case Management Order of December 30, 2005, extending the times for filing pretrial statements by thirty days and appropriately modifying that Case Management Order in regard to the time for filing dispositive motions and responses thereto.

Respectfully submitted,

/s/ James T. Marnen
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 18th day of January, 2006, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen
James T. Marnen